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C O N F I D E N T I A L KATHMANDU 001226

SIPDIS

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TAGS: [PHUM](#) [PGOV](#) [MOPS](#) [NP](#)

SUBJECT: NEPAL: ARMY CHIEF REPLIES TO SUPREME COURT

REF: KATHMANDU 1193

Classified By: Classified by CDA Janet Bogue; Reasons 1.5 (b) and (d).

[11](#). (U) According to media reporting on June 29, Chief of Army Staff (COAS) Pyar Jung Thapa responded in writing to the Nepali Supreme Court's "show cause" order (Ref A). His response reportedly indicated that past failures by the Royal Nepal Army (RNA) to respond to habeas corpus writs on individuals allegedly held in secret preventative detention were due to a lack of understanding within army units of the law and chain-of-command issues. (NOTE: Army units receiving writs in the past have failed to respond, arguing that they were only permitted by chain of command considerations to respond through the COAS's office. END NOTE.) Thapa's reply reportedly indicated that units would answer directly to the Court from this point forward.

[12](#). (C) Supreme Court Joint Registrar and Spokesperson Ram Krishna Timalsina confirmed to the Embassy that the Court had received such a letter from the COAS. Timalsina expressed the Court's satisfaction at the response, and even gratitude towards the Army Chief for responding so quickly. When asked his opinion if the COAS's order would mean the Army would, in fact, "produce bodies," Timalsina demurred, saying the Court had to accept the Army Chief of Staff's word.

[13](#). (C) COMMENT: The public nature of the COAS' response, at a minimum, indicates the Army's awareness of the importance of appearing to respect rule of law and human rights. The time limit for required responses to writs of habeas corpus can vary from 48 hours to seven days. The next writ issued by the Supreme Court may provide an interesting and important test of the Army's actual intent to meet the requirement of the law. However, until a method is devised to fully prosecute suspected Maoists under the civil legal system (Ref A), due process remains in question. END COMMENT.  
BOGUE